



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,837	04/10/2001	Kinya Aota	503.35933VV5	1020

20457 7590 02/26/2004

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

EXAMINER

SIMONE, CATHERINE A

ART UNIT PAPER NUMBER

1772

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/828,837	Applicant(s) AOTA ET AL. <i>eb</i>	
	Examiner Catherine Simone	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
 - (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 17,18 and 20-34.

Claim(s) withdrawn from consideration: none.
8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: Newly amended claims 24 and 30 raise new issues requiring a novel search and further consideration because now they recite the new limitation "said extended part being adapted to be subjected to friction stir welding together with said another extruded frame member".

Advisory Action

Response to Arguments

Applicant's arguments filed 2/2/04 have been fully considered but they are not persuasive. Applicant argues that "Clearly, as can be seen, for example, in Fig. 7 of Aota et al., the projecting piece 38 having raised portion 38a overlaps the projecting piece 37 of the frame member 31, and it is respectfully submitted that this disclosure in Aota et al. would have taught away from the overlap as in the present claims." However, it is to be pointed out that according to the Merriam-Webster's Dictionary, the definition of overlap is "to extend over or past and cover a part of". Element 37 in Figure 7 of Aota et al. does extend past and covers part of the plate of the another extruded frame member. Therefore, Aota et al. clearly teaches an extended part (Fig. 7, #37) overlapping at least one plate of another extruded frame member.

Applicant further argues that "As can be seen, for example, in Fig. 7 of Aota et al., the structure represented by reference character 37 extends from vertical plate 36, not raised portion 37a and not even from plate 33; and accordingly, it is respectfully submitted that the structure as in, for example, Fig. 7 of Aota et al. would have taught away from that aspect of the present invention having the extended part extending from the thickened part as in the present invention. That is, it is respectfully submitted that the extruded part extends from the vertical plate 36 in Aota et al., not from the thickened part." However, it is to be pointed out in Aota et al. that the thickened part is not just the raised portion 37a. It also includes the portion beneath 37a. Therefore, the extended part 37 extends from the thickened part as is presently claimed.

Applicant further argues that "it is respectfully submitted that the projecting piece 37 of Fig. 7 of Aota, et al. (and as is also in Fig. 5 of Aota, et al.) is not provided continuously from the

thickened part (raised portion 37a in Aota, et al.) as in the present claims.” However, it is to be pointed out again that the thickened part includes the portion below the raised portion 37a as well as the raised portion 37a and the extended part 37 extends continuously from the thickened part as presently claimed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine Simone
Examiner
Art Unit 1772
February 20, 2004



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

2/20/04